



State of California  
Office of the Attorney General

**ROB BONTA**  
ATTORNEY GENERAL

September 29, 2025

The Honorable Kristi Noem  
Secretary  
United States Department of Homeland Security  
245 Murray Lane, SW  
Washington, DC 20528

Mr. Todd Lyons  
Acting Director  
United States Immigration and Customs Enforcement  
500 12th St., SW  
Washington, DC 20024

RE: Comment Regarding Notice of Proposed Rulemaking, *Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media*, 90 Fed. Reg. 42,070 (Aug. 28, 2025), DHS Docket No. ICEB-2025-0001, RIN 1653-AA95

Dear Secretary Noem and Acting Director Lyons:

We, the Attorneys General of California, Colorado, Connecticut, District of Columbia, Hawai‘i, Illinois, Maine, Massachusetts, Minnesota, New Mexico, New Jersey, New York, Nevada, Oregon, Vermont, and Washington (the “States”) write to oppose the Department of Homeland Security’s (“DHS”) Proposed Rule: Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media, Notice of Proposed Rulemaking, 90 Fed. Reg. 42,070, DHS Docket No. ICEB-2025-0001 (published Aug. 28, 2025).<sup>1</sup>

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<sup>1</sup> This proposed rule is similar to DHS’s 2020 proposed rule that also sought to end duration of status. See Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media, 85 Fed. Reg. 60,560 (September 25, 2020). A multistate coalition, which included California, also strongly opposed that proposed rule. Attorneys General of the District of Columbia, Massachusetts, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, Washington, and Wisconsin Comment Letter on Proposed Rule Establishing a Fixed Time Period of Admission and an

American students' education is enhanced by the rich and diverse viewpoints, interests, and skillsets international students and exchange visitors bring to higher education institutions. This education equips Americans to engage more fully with the globalized economy and to better advance American interests. The federal government threatens this aspect of American education by seeking to impose drastic and burdensome restrictions on international students and exchange visitors without adequate legal or factual basis. It does so on an expedited timeline that reflects a disinterest in engaging in meaningful notice and comment rulemaking.

The proposed rule, if finalized, would injure American educational institutions and State economies by discouraging students and exchange visitors from pursuing educational opportunities in the United States. The federal government should consider more targeted approaches to address the concerns it purports the proposed rule will address and withdraw the proposed rule.

## **I. Background**

The United States has long employed a Duration of Status admission framework for students on F-1 visas and exchange visitors on J-1 visas. Beginning in 1979, the Duration of Status admission period permitted visitors in these categories to remain in the United States for the period during which they are complying with the terms of their respective visas. That framework has provided students and exchange visitors with the certainty that they could remain enrolled long enough to obtain their degrees or complete their programs. This is critical peace of mind when individuals invest significantly, sometimes hundreds of thousands of dollars, in their education and may need several years to complete their studies. Duration of Status also saves considerable American tax dollars by obviating the need for the federal government to process hundreds of thousands of applications on behalf of those seeking to extend their stays in the United States.

Under the proposed rule, DHS would end Duration of Status admission periods entirely. Instead, international students and exchange visitors would be admitted for a fixed period and must apply for an extension of stay (EOS) to remain in the United States beyond the fixed term. Although designated school officials would retain their ability to extend a student or exchange visitor's program duration for valid reasons, that student or exchange visitor would now need to seek separate authorization from DHS to remain in the United States to complete the program that the institution has extended for good reason. Additionally, the proposed rule imposes several other new, burdensome restrictions on international students.

For F-1 and J-1 visa holders, the proposed rule would set a fixed period for admission to the length of the academic program specified on a visa application form or four years,

whichever is shorter. Before the end of the fixed term, visa holders requiring additional time must apply for an EOS directly with DHS or depart the United States and seek readmission. DHS would only grant an extension if the additional time needed is due to (1) a compelling academic reason, (2) documented medical illness or medical condition, or (3) a circumstance that was beyond the student's control, including a natural disaster, a national health crisis, or the closure of an institution. DHS would not grant an EOS if additional time is needed due to academic probation, suspension, or inability to complete course of study.

The proposed rule would restrict school transfers and changes of educational objectives within an undergraduate student's first academic year, unless an exception is authorized by the Student and Exchange Visitor Program ("SEVP"). The proposed rule further would prohibit students in a graduate level program of study from changing educational programs. A visa holder who has completed a program under F-1 status would not be able to obtain F-1 status for another program at the same or lower educational level; instead, to obtain F-1 status for a new program, the individual must begin a program at a higher educational level. The proposed rule would also reduce the time student visa holders have to depart the United States to 30 days, rather than the current 60 days.

As described below, these changes create a system that discourages international students from pursuing educational endeavors at American institutions, creates new administrative burdens for students and institutions, and harms the States' economies.

## **II. The Comment Period is Procedurally Deficient**

On August 28, 2025, DHS published the proposed rule, proposing to fundamentally overhaul regulations governing international students and exchange visitors. Despite these sweeping changes, the proposed rule allowed for just 30 days for public analysis and comment. Nowhere in the 46-page proposal did DHS attempt to justify such an abbreviated period.

DHS's rush to close the comment period makes the proposed rule procedurally deficient. The Administrative Procedure Act ("APA") and the Executive Branch's longstanding application of the APA's requirements make clear that an abbreviated 30-day comment period fails the APA's notice-and-comment requirements for reasoned agency decision-making. The APA requires that "the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments..." 5 U.S.C. § 553(c). For more than two and a half decades, executive agencies have followed a presumption that a minimum of 60 days is necessary to provide the public with a meaningful opportunity to comment on proposed agency regulations. Executive Order 12,866 provides that "[e]ach agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days." Regulatory Planning & Review, Exec. Order 12,866, § 6(a)(1) (Sept. 30, 1993); *see also* Improving Regulation & Regulatory Review, Exec. Order 13,563 (Jan. 18, 2011) ("To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60

days.”). There is no reasoned justification for a 30-day comment period for a proposal that is estimated to cost nearly \$90 million to United States entities. 90 Fed. Reg. 42,073.

### **III. The Proposed Rule is Arbitrary and Capricious in Violation of the Administrative Procedure Act**

Agencies are required to consider relevant information and evidence and provide a reasoned explanation for their actions under the APA. *See Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983) (agency must show that it “examine[d] the relevant data and articulate[d] a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’”) (citation omitted); *Schurz Commc’ns v. FCC*, 982 F.2d 1043, 1049 (7th Cir. 1992). An agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, will be held invalid and vacated. 5 U.S.C. § 706(2)(A).

The proposed rule relies on faulty logic and tenuous reasoning and fails to consider important effects if it becomes final. Therefore, it is arbitrary and capricious and cannot withstand scrutiny under the APA.

#### **A. DHS’s Basis for Ending Duration of Status Is Illogical.**

Duration of Status has been in effect for 47 years for students on F-1 visas and 40 years for exchange visitors on J-1 visas. 90 Fed. Reg. 42,071. The rationale supporting Duration of Status is even stronger today than when it was first instituted. The Duration of Status regulation was justified in 1979, when there were less than 225,000 student and exchange visitors,<sup>2</sup> because of the “need to continually process” nonimmigrant students’ EOS applications, which would “provide dollar and manpower savings to the Government and permit more efficient use of resources.” 85 Fed. Reg. 60,528. In 2023, over 1.6 million F-1 visa holders and over 480,000 J-1 visa holders were present in United States.<sup>3</sup> Notwithstanding the continuing need to efficiently process extensions, DHS proposes a solution that would only exacerbate its current problem and create new ones.

Despite recognizing in a similar proposed rule in 2020 that academic students and exchange visitors “generally maintain[] lawful status by complying with the conditions of [their respective] program[s],” *id.* at 60,533, DHS continues to “believe[] that the admission of F, J, and I nonimmigrants for [Duration of Status] is not appropriate,” 90 Fed. Reg. at 42,072 (emphasis added). Currently, compliance is monitored through SEVP and implemented through the Student and Exchange Visitor Information System (“SEVIS”) that, according to DHS, “ensures government agencies have essential data related to nonimmigrant students and exchange visitors to preserve national security.” *Id.* Without providing evidence, DHS suggests an increase in

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<sup>2</sup> Chad Haddal, *Foreign Students in the United States: Policies and Legislation*, Congressional Research Service, at 1 (Jan. 31, 2008), <https://fas.org/sgp/crs/misc/RL31146.pdf>.

<sup>3</sup> Department of Homeland Security, *U.S. Nonimmigrant Admissions: 2023*, Table 1 at 3, (Aug. 2024), [https://ohss.dhs.gov/sites/default/files/202409/2024\\_0906\\_ohss\\_nonimmigrant\\_fy2023\\_0.pdf](https://ohss.dhs.gov/sites/default/files/202409/2024_0906_ohss_nonimmigrant_fy2023_0.pdf).

nonimmigrant visitors “poses a challenge to the Department’s ability to monitor and oversee these nonimmigrants,” even while acknowledging “these nonimmigrants are not required to have direct interaction with DHS, except for a few limited instances.” *Id.* at 42,071. DHS ignores the purpose and effectiveness of SEVIS and does not explain how SEVP and SEVIS, or modifications to these systems, do not address its monitoring concern. *See id.* at 42,076. Already, institutions appoint a principal designated school official and designated school officials (DSOs) to use SEVIS to report material changes to the institution (e.g., a change in academic or vocational programs, etc.) and changes in student information (e.g., address and employment information), regularly register student records, and petition for recertification of the institution every two years.<sup>4</sup> These systems have numerous requirements to report information to the federal government that obviate the need to create the fixed visa limitations proposed in the rule.

DHS’s proposed requirement that students whose fixed date of admission is nearing submit EOS applications, which DHS will need to carefully review based on the high standard for EOS proposed by the rule, mandates use of more government resources, thus exacerbating the issues the federal government addressed when it initiated Duration of Status. The proposed rule complicates compliance through SEVIS by separating the mechanisms for extensions of an academic program and exchange visitor program (which DSOs continue to have the ability to approve for valid reasons) from the student or exchange visitor’s ability to remain in the United States to complete the extended program (which would now require separate adjudication by DHS). *Id.* at 42,076. DHS suggests, without support, that additional opportunities for scrutiny “may also have the effect of deterring individuals who would otherwise seek to come to the United States” and engage in unspecified bad behaviors. *Id.* at 42,078 (emphasis added). Again, without evidence that the additional burden would address a material problem, DHS leans on a “belief” that the process “would help to mitigate risks posed by aliens who seek to exploit these programs and live in the United States.” *Id.* DHS argues the additional EOS applications would ensure it “has an effective mechanism to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications.” *Id.* at 42,072. But, as discussed above, the substantial requirements in the current systems obviate the need to create additional EOS applications or for DHS to adjudicate the applications.

Ultimately, DHS does not adequately explain how the elimination of Duration of Status “may” discourage fraud, nor consider other means to address its monitoring concerns. If more efficiency and less fraud is its aim, DHS could require additional documentation and DHS contact during the Duration of Status period. DHS also could have proposed amendments to SEVP and SEVIS reporting requirements.

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<sup>4</sup> *What to Know About SEVP Certification*, Department of Homeland Security, <https://studyinthestates.dhs.gov/schools/get-started/what-to-know-about-sevp-certification>.

B. The Reasoning for the Four-Year Maximum is Flawed.

DHS inappropriately proposes a maximum fixed limit to the term of stay for *all* programs based on an incorrect belief that undergraduate students complete their degrees in four years. Citing to a U.S. Department of Education report, DHS concludes students “can normally” earn a bachelor’s degree in four years, and non-resident students “normally” earn their bachelor’s degrees within four years of entry. *Id.* at 42,082. Since 79% of the F-1 students in 2023 were enrolled for either a bachelor’s degree or a two-year master’s degree program, the rule proposes that particular fixed limit to the stay period because DHS “believes” a four-year period of admission “would not pose an undue burden to most nonimmigrant students.” *Id.* Without reliance on further data, DHS insists a maximum four-year period of admission “is the best option because it aligns with the general structure of post-secondary education.” *Id.*

To the contrary, according to the report DHS relied on, approximately 43.5% of nonresidents in the 2017 cohort required more than four years to earn a bachelor’s degree.<sup>5</sup> Analyzing the 2023-24 school year data from the National Center for Education Statistics, the James Martin Center confirms that 34% of *all* college students (including United States citizens) finish their undergraduate degrees within 4 years.<sup>6</sup> DHS does not explore the numerous and varied legitimate reasons why students are unable to complete degrees in four years, such as a change in major, the need to transfer schools, or needing to leave school to earn tuition money or care for a loved one. As such, if degree completion rates remain the same, at least 43.5% of international students pursuing bachelor’s degrees would require an EOS, a much larger number than DHS considered. Clearly, the four-year period does not align with the reality of undergraduate education, much less post-secondary education as a whole, and is inappropriate.

Additionally, the four-year maximum applies to undergraduate and graduate students alike. Yet the median amount of time needed to complete a doctoral program is far longer than four years. The median amount of time needed to complete a research doctorate in all fields after starting graduate school was 7.3 years in 2024 and as follows for particular fields:<sup>7</sup>

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<sup>5</sup> The Mobile Digest of Education Statistics indicates that only 56.5% of the 2017 cohort of nonresidents graduated in four years. Table 326.10: Graduation rate from first institution attended for first-time, full-time bachelor's degree-seeking students at 4-year postsecondary institutions, by race/ethnicity, time to completion, sex, control of institution, and percentage of applications accepted: Selected cohort entry years, 1996 through 2017, Digest of Education Statistics, [https://nces.ed.gov/programs/digest/d24/tables/dt24\\_326.10.asp](https://nces.ed.gov/programs/digest/d24/tables/dt24_326.10.asp).

<sup>6</sup> The James G. Martin Center for Academic Renewal, *50-State Comparison*, <https://jamesgmartin.center/wp-content/uploads/2025/04/50-State-College-Graduation-Rates.pdf>.

<sup>7</sup> Table 1-12: Median years to research doctorate, by trend broad field of doctorate: Selected years, 1974–2024, National Center for Science and Engineering Statistics, <https://nces.nsf.gov/surveys/earned-doctorates/2024#data>.

**Median Time to Degree of Doctorate Recipients By Broad Field of Study: 2024**

Computer and information sciences	7 years
Social Sciences	8.8 years
Other non-science and engineering fields	9.8 years
Humanities and arts	9.7 years
Education	12.3 years
Business	8.7 years
Engineering	6.5 years
Health sciences	8.8 years

DHS incorrectly suggests that an insignificant number of international students, both F and J nonimmigrants, would complete their studies within a four-period and not have to request additional time from DHS—this ignores the realities of doctoral programs and the fact that, as discussed in more depth below, a substantial number of students will be impacted. *See id.* at 42,082.

**C. DHS Fails to Adequately Consider the Burdens the Proposed Rule Imposes on International Students and the Likely Consequences of These Burdens.**

The proposed rule imposes significant hurdles on international students, likely resulting in bona fide students declining to study in the United States, including: (1) a serious deportation risk for undergraduate students if they cannot finish their degrees within the fixed time period; (2) a similarly serious risk for graduate students—many of whom are in programs longer than four years; (3) having to navigate a complex and expensive process of obtaining an EOS; (4) reducing the grace period for departing the United States to 30 days; (5) limiting educational objective changes and school transfers in the first year for undergraduates; (6) prohibiting graduate students' program transfers; and (7) uncertainty in the ability to obtain an OPT. DHS fails to adequately assess how burdensome these hurdles are, and in so doing, fails to weigh the likely negative consequences of the proposed rule.

First, the four-year fixed limit coupled with the strict EOS criteria will deter students from seeking to study in the United States.<sup>8</sup> If nonimmigrants' degree completion continues on its current trend, at least 43.5% of nonimmigrant undergraduate students will need an EOS.

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<sup>8</sup> While the maximum contemplated fixed period is four years, the proposed rule also contemplates a fixed period based on a program's length that is shorter than four years. For students pursuing associate's and master's degrees, this could be a two year period. Like students who would be granted four-year fixed periods, those with two-year periods would need to critically consider the risk that they cannot complete their degrees within the fixed time period and may opt out of studying in the United States.



However, DHS would not grant an EOS due to “repeated inability or unwillingness to complete his or her course of study, as demonstrated by a pattern of failing classes and requesting multiple program extensions.” *Id.* at 42,092. Students who are studying in a language foreign to them would need to seriously consider whether they can complete their degrees in four years. Whereas the smallest hiccup, even those reasonably foreseeable, can briefly delay completion of a course of study for United States citizens, it could end an academic career for a nonimmigrant and represent a loss of tens or hundreds of thousands of dollars. This is a strong deterrent for international students applying to undergraduate programs in the United States and will likely exacerbate the current trend of fewer international student applicants.<sup>9</sup>

Second, the four-year maximum would disincentivize international graduate students from beginning programs with no reasonable assurance a degree can be obtained. Nearly all, if not all, students seeking a doctoral degree will need at least one extension, and possibly two.<sup>10</sup> International students make up a significant portion of graduate students, including doctoral students, in the United States. In Fall 2024, about 24% of graduate students, or about 15,000, within the University of California school system were international students.<sup>11</sup> And in Oregon, 16% of graduate students were international students, consisting of 2,340 students. With respect to doctoral programs, in the 2023-24 academic year, 149,618 international students were enrolled in doctoral programs in the United States.<sup>12</sup> In Oregon, 1,028 international students were enrolled in doctoral programs in 2023-24, excluding health programs, which constitutes 27% of all doctoral students outside of health programs. Likewise, the University of Hawai‘i at Mānoa has a significant number of international students seeking doctoral degrees with 375 such students.<sup>13</sup> The proposed rule would drastically impact their enrollment in the United States and, by extension, how they benefit American colleges and universities and the States’ economies.

Third, the proposed framework creates administrative burdens and expenses for students that will likely discourage nonimmigrant visa applications. “[T]he burden would now be upon [the nonimmigrants] to request authorization directly from DHS . . . whereas previously they obtained an extension of lawful status in conjunction with a program extension through a DSO or [Responsible Officer].” *Id.* at 42,085. Foreign students would be required to navigate an unwieldy and difficult process. An error could lead to dire consequences—their departure from the United States and end to educational pursuits that cost significant sums of money.

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<sup>9</sup> Amid the Trump Administration’s shifting and unstable student visa issuance landscape, American educational institutions report significant declines in international students enrolling in the Fall 2025 semester. Elissa Nadworny, *Colleges See a Drop in International Students Under Trump*, NPR, Aug. 27, 2025, <https://www.npr.org/2025/08/27/nx-s1-5498669/trump-college-international-student-visa>.

<sup>10</sup> Or three for the average student seeking a doctorate in Education.

<sup>11</sup> *Fall Enrollment at a Glance*, University of California, <https://www.universityofcalifornia.edu/about-us/information-center/fall-enrollment-glance> (last visited Sept. 22, 2025).

<sup>12</sup> *International Students Data*, Open Doors Report (2024), <https://opendoorsdata.org/data/international-students/academic-level/>.

<sup>13</sup> International Student Data-Fall 2024 Snapshot, <https://www.hawaii.edu/issmanoa/wp-content/uploads/2024/10/Factsheet-FI-2024-20241003.pdf>.



Nonimmigrant students must also factor in the fee of \$470 for paper filing or \$420 for online filing for one or more EOS applications.<sup>14</sup> For doctoral students, who will surely require one or more extensions, these fees compounded would be significant. And there are no time estimates for the background and security checks DHS would now complete for an EOS, which would leave students to anxiously await a response for an unspecified period. For ten years after the rule's implementation, DHS estimates annual EOS requests would average 205,000 F-visa nonimmigrants. *Id.* at 42,101. In the rare circumstances in which F-1 visa holders today file applications to extend or change nonimmigration status, 80% of those applications take three-and-a-half months to be processed at the Service Center Operations.<sup>15</sup> These times would undoubtedly grow with the inestimable time required for immigration officer investigations given the high burden that will need to be met for EOS to be granted.<sup>16</sup> Such unnecessary procedural burdens would discourage students to seek a visa in the first instance.

Fourth, the proposed rule's cutting in half of the grace period under which students must depart—from 60 to 30 days—is overly restrictive. This change would severely restrict students' ability to manage essential academic, immigration, and personal transitions at the conclusion of their studies or training. Students would have far less time to: change to a higher level of academic study at their current school; transfer to another school for advanced study; apply for OPT authorization; and make travel plans within the U.S. before returning home, sell belongings, resolve contractual lease agreements, close accounts, arrange shipping, and prepare for departure. As an example, the shortened grace period may result in students needing to break year-long leases, which renters cannot be released from without an undue financial or logistical burden.<sup>17</sup> While the 60-day grace period provides a reasonable amount of time for students to resolve this issue or fulfill their lease, a 30-day grace period is not, and graduating international

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<sup>14</sup> These fees are current as of August 2025. *Fee Schedule*, Department of Homeland Security, 20 (Aug. 29, 2025), <https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf>. To the extent that, under the proposed rule, international students would need to pay for premium processing to avoid employment or student disruptions, the fee is much higher at \$1,965. *Reminder: Adjustment to Premium Processing Fees Takes Effect Today*, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/archive/reminder-adjustment-to-premium-processing-fees-takes-effect-today>.

<sup>15</sup> *Check Case Processing Times*, U.S. Citizenship and Immigration Services, <https://egov.uscis.gov/processing-times/> (last visited Sept. 19, 2025).

<sup>16</sup> The proposed rule only allows a 240-day extension to on-campus employment authorization for nonimmigrants in F-1 status while their EOS applications are pending. 90 Fed. Reg. 42,090. The unknown processing times for EOS applications will increase student anxieties and further deter international students from American institutions, especially those who require on-campus employment to support their expenses while living in the United States. Additionally, the proposed Rule would also come at significant expense to nonimmigrants, which DHS estimates will total approximately \$304 million annually. 90 Fed. Reg. 42,101. Further, DHS cannot begin to estimate the additional “implementation and operational costs” that will be passed along to the American taxpayer. *See id.*

<sup>17</sup> These leases likely would begin when the school year does, typically in August, and end one year later at the end of July. But under the proposed rule, after students graduate, they would be forced to depart only 30 days later—so if they graduated in May, they would need to leave in June, shy of a one-year lease term.

students may need to forfeit paid rent or break their lease. Indeed, the current 60-day grace period is not arbitrary; it reflects the unique realities of the international student population in F-1 status. International students often complete lengthy degree programs involving years of study, deep integration into academic and local communities, and substantial logistical considerations for departure. Cutting the grace period in half ignores those realities and imposes unnecessary stress and administrative burden on both students and universities. Moreover, DHS's rationale for the change—that 30 days is “adequate” because other classifications have shorter grace periods—fails to account for the fundamentally different purposes and structures of those classifications. Short-term exchange visitors in J-1 status do not face the same academic transitions, unpredictable timelines for degree requirements such as dissertation research, OPT application timelines, or relocation burdens that international students in F-1 status routinely navigate. This change, like the others, contributes to a culture of fear for international students wherein they risk deportation—one that likely will make many forego studying in the United States entirely.

Fifth, the proposed rule creates unreasonable and unnecessary barriers for undergraduate students by requiring them to complete one academic year of study before transferring institutions or changing majors, absent SEVP authorization for “extenuating circumstances.” For undergraduate students, changing majors or transferring schools is a routine and expected part of education. Many students begin their undergraduate studies when they are 18 years old. Throughout formative years such as their first year of college, students discover new fields of interest they may want to pursue through their studies. Forcing them to remain in their initial program for an entire academic year, regardless of fit, undermines student success and well-being and could unnecessarily delay a student's completion of their degree. Studies have shown that “there are characteristic developmental changes that almost all adolescents experience during their transition from childhood to adulthood. It is well established that the brain undergoes a ‘rewiring’ process that is not complete until approximately 25 years of age.”<sup>18</sup> It is reasonable to assume that any student in traditional undergraduate age demographic may desire to change their major after beginning their studies as they mature and develop different academic interests. Many students begin their undergraduate studies in an “undeclared” or “open option” major field of study. If an international student determines their desired field of study within their first year of study, they should be able to immediately change their program of study to enroll in major-specific coursework and avoid an unnecessary delay in their degree completion and additional costs. Restricting the flexibility of international students in this way is unduly burdensome.

Sixth, prohibiting graduate students from changing programs of study is impractical. Graduate study is by nature flexible and exploratory. Students, both domestic and international, often shift their research focus, change advisors, or transition to programs better aligned with their academic and professional goals. Such a blanket prohibition is unprecedented and out of step with the realities of graduate education in the United States. Graduate students with on-

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<sup>18</sup> Mariam Arian et al., *Maturation of the Adolescent Brain*, Neuropsychiatric Disease and Treatment (2013) <https://pmc.ncbi.nlm.nih.gov/articles/PMC3621648/>.

campus assistantships that fund their educational programs are in a particularly precarious position as both full-time degree-seeking students *and* employees of the university. Many graduate-level students rely on one individual (University Faculty Member) to serve as their academic research advisor as well as their on-campus employment supervisor. If the relationship with this individual deteriorates due to a reason outside of the student's control, the student may need to explore transferring to a program that still supports their academic endeavors and research objectives but provides a more constructive educational and work environment for the international scholar. This proposed rule would limit this, creating yet another block for international students as they consider pursuing their educations in the United States.

Finally, the cumbersome EOS process will deter individuals seeking OPTs. Under the proposed rule, those seeking OPTs must apply for an EOS and await adjudication for an unspecified period of time as described above. *Id.* at 42,084 The uncertainty that an EOS application will be approved would discourage individuals from seeking OPTs. This would reduce the workforce, including within the STEM workforce which is an area that employs individuals with highly technical expertise.

In sum, the proposed rule's burdensome and unnecessary restrictions create obstacles at every post-secondary educational level for international students—DHS fails to account for the significance of these changes and the likely deterrent effect they will have on international students' applications as a whole.

#### **IV. The Proposed Rule Would Directly and Significantly Impact American Educational Institutions and State Economies**

The proposed rule would acutely and negatively affect the quality of education in the States' educational institutions, including public colleges and universities, as well as State economies. These harms would permanently alter the landscape of American higher education.

##### **A. The Proposed Rule Would Diminish American Students' Quality of Education.**

As discussed above, the proposed rule's imposition of new obstacles for international students would likely cause a decline in international student enrollment, which will deprive American students and institutions of the educational, cultural, and research contributions of international students. International students and exchange visitors bring rich and diverse viewpoints, interests, and skillsets, which they share in classrooms, research projects, on-campus jobs, clubs, and other extracurricular activities, as well as in everyday social interactions. Research shows that American students appreciate the different perspectives that international students bring to class, and, equally, international students stated that they

benefit too from this cross-national interaction.<sup>19</sup> In one study, students shared that cross-national interactions helped them gain knowledge and skills needed for effective intercultural communication, improved their ability to reflect on their own culture, helped them develop leadership and problem-solving skills, and increased their engagement with course content utilizing multiple perspectives.<sup>20</sup> International students also valuably add to critical research fields further enhancing American institutions and the education they offer, as well as American innovation.

Further, diminished international student enrollment will have financial ramifications that, in turn, impact core educational objectives. For example, during the 2023-24 school year, international students contributed an estimated \$217 million in gross student tuition and fee revenue to public New Jersey institutions. At California State Universities, during academic year 2024-25, international students contributed nearly \$230 million in tuition and fees. At California Community Colleges, during academic year 2024-25, international students contributed nearly \$163 million in tuition. And during the 2023-24 school year, international students contributed an estimated \$190 million in gross tuition and fees to Oregon public higher education institutions.

This fiscal impact will be felt across the States' university and college systems, including their ability to serve lower-income in-state students by reducing the amount of tuition they are required to pay. Financial losses could mean fewer course offerings, student services, academic support, and housing services, harming even American students. The loss will be particularly acute in certain degrees and fields. Significantly, nonimmigrant visa holders represented an average of approximately 36% of all science and engineering doctoral students in the United States each year between 2011 and 2018.<sup>21</sup> In Fall 2024, approximately 25% of science and engineering doctoral students within the University of California school system were international students,<sup>22</sup> and 31% of Oregon's science and engineering doctoral students were international students (550 international students). In Fall 2025, 40% of international students attending California State University schools were enrolled in graduate programs. If there is a decrease in international students, certain graduate programs, such as those in STEM that enroll a particularly high number of international students, could be compromised. The arbitrary four-year limit the rule proposes would undermine enrollment without due consideration of the associated harms.

If international students and exchange visitors are effectively forced to pursue their studies outside of the United States—either as a result of the restrictions imposed by the

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<sup>19</sup> See generally Diana F. Yefanova et al., *Instructional Practices Facilitating Cross-National Interactions in Undergraduate Classes*, 7 J. of Int'l Students 786 (2017), <https://ncses.nsf.gov/pubs/nsf20301/report/u-s-doctorate-awards#citizenship>.

<sup>20</sup> *Id.*

<sup>21</sup> *U.S. Doctorate Awards, Survey of Earned Doctorates* (2018), <https://tinyurl.com/ys9dvxy5>.

<sup>22</sup> *Fall Enrollment at a Glance*, University of California, <https://www.universityofcalifornia.edu/about-us/information-center/fall-enrollment-glance> (last visited Sept. 22, 2025).

proposed rule or because of a perceived hostility toward international students—American students and institutions will lose out on their numerous contributions. As a result, American students will be less prepared and less able to compete in an increasingly globalized economy.

**B. The Proposed Rule Would Increase American Educational Institutions’ Administrative Burdens and Costs.**

The proposed rule would also impose direct costs on educational institutions. Institutions would have to divert valuable, limited resources to assist a significantly larger number of international students with navigating the new system, an increase caused by the proposed rule, in completing EOS applications. Schools will need to increase academic counseling to ensure students meticulously plan their schedules, so they complete their programs in four years or by the end of the academic program (e.g., two years for master’s or associate’s programs). For example, many institutions do not offer prerequisite classes every semester, and it is a complicated process to ensure that students take all classes in the right sequence to graduate on time. Students will also need counseling to comply with the proposed rule’s additional restrictions on undergraduate first year educational objective changes and the prohibition on graduate level program transfers.<sup>23</sup> Also, the additional pressure of a four-year deadline and the potential loss of tens or hundreds of thousands of dollars if an EOS is rejected will create justifiable anxiety for international students. This will create the need for educational institutions to increase their mental health services. Meanwhile, nonimmigrants in F or J status with pending EOS applications will be awaiting adjudication of their applications for an unspecified period of time prompting an increase of inquiries from these individuals, contributing further to the administrative backlog of universities and USCIS alike.

For example, one New Jersey institution estimates an initial burden of about \$1.5 million, followed by an average of \$1.3 million per year, to implement necessary technological and training changes. It estimates a burden of about 67 hours of trainings per staff member and over \$180,000 just to train staff on the adaptations for the new policies required by the proposed rule. It estimates approximately three hours of support for each EOS application totaling approximately \$234,000. The compounded costs and burdens among the States’ many schools will be significant.

**C. The Rule Would Negatively Affect State Economies.**

The proposed rule poses a significant risk to the health of State economies. In addition to tuition, international students and exchange visitors rent apartments and houses from local landlords; purchase food from grocery stores and restaurants; frequent retail stores; and

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<sup>23</sup> Notably, the proposed rule does not contain sufficient reasoning for the restriction on changing educational objectives. The fraud cases discussed in the proposed rule are predominately related to school transfers by first year students, and not changes in educational objectives. Thus, this aspect of the proposed rule, too, makes it arbitrary and capricious.

make entertainment and leisure purchases. According to the U.S. Department of Commerce, international students contributed \$43.8 billion to the U.S. economy and according to the NAFSA Association of International Educators, supported 378,175 jobs during the 2023-24 school year.<sup>24</sup> In California, during the 2023-24 school year, international students attending California institutions contributed \$6.4 billion to the economy and supported 55,114 jobs.<sup>25</sup> In Colorado, during academic year 2023-24, 10,363 international students contributed over \$404 million to the economy in tuition and fees, housing and other costs, making higher education Colorado's sixth largest export. During the same time period, international students in Massachusetts contributed an estimated \$3.9 billion to the state economy, supporting almost 36,000 jobs.<sup>26</sup>

Even without the proposed rule, the NAFSA Association of International Educators report already projects a decline of \$7 billion to the economy as a result of already implemented visa restrictions, leading to a potential loss of 60,000 jobs nationwide.<sup>27</sup> The proposed rule would likely exacerbate these already significant harms by accelerating the decline in international enrollment, resulting in additional job losses and declines in sorely needed tax revenue.

## **V. The Proposed Rule Conflicts with Relevant Statutes and Regulations**

The proposed rule conflicts with and undermines the statutory and regulatory scheme, which clearly contemplates that a student can remain in the United States as long as necessary to complete their course of study. To begin, under 8 U.S.C. § 1101(a)(15)(F)(i), the F-1 visa requires that an international student be “qualified to pursue a full course of study” and enter the country “solely for the purpose of pursuing such a course of study” at a qualifying college, university, or other academic institution. This statutory provision indicates that the purpose of F-1 visas was to permit students to pursue a course of study and therefore, complete that course of study. By cutting students’ course of study short, as many programs cannot be completed within four years, the proposed time limitation undermines this congressional mandate. And while the proposed rule would allow for an extension of stay for “compelling academic reason, documented medical illness or medical condition, or circumstance that was beyond the student’s control,” 90 Fed. Reg. 42,092, this narrow exception would fail to ensure that a nonimmigrant student could complete their degree.

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<sup>24</sup>*Economic Value Statistics*, NAFSA <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2>.

<sup>25</sup>*The United States of America Benefits from International Students*, NAFSA <https://www.nafsa.org/sites/default/files/media/document/EconValue2024.pdf>.

<sup>26</sup>*Economic Value Statistics*, NAFSA, <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2>.

<sup>27</sup>*U.S. Economy Could Suffer a \$7 Billion Loss from Precipitous Drop in International Students*, NAFSA <https://www.nafsa.org/about/about-nafsa/us-economy-could-suffer-7-billion-loss-precipitous-drop-international-students>.

Additionally, Section 1101(a)(15)(F)(i) instructs that a student's institution must report to the Attorney General "the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn." 8 U.S.C. § 1101(a)(15)(F)(i). The information to be collected includes the date of and reason for the termination of enrollment. 8 U.S.C. § 1372(c)(1)(H). The requirements to notify the federal government about an event that results in the end of a student's studies (i.e., graduation, disciplinary action, dismissal, or failure to re-enroll) lends further support to the argument that F visa admissions should be governed by a student's participation in their course of study rather than arbitrary time limits. The proposed rule, by contrast, would impose an artificial fixed end date that is contrary to the statute and congressional intent.

The proposed rule is also at odds with 8 C.F.R. § 214 and would result in internally incoherent and contradictory regulations. As provided in 8 C.F.R. § 214.2 (f)(6)(i), the "[s]uccessful completion of the full course of study must lead to the attainment of a specific educational or professional objective." The regulation recognizes that inherent in a "full course of study" is the opportunity to successfully complete that course of study by graduating or otherwise attaining a specific educational objective. By contrast, the proposed rule would limit many students to admission periods insufficient for "successful completion." Consequently, it will be uncertain, at best, whether many students would be able to complete their degree or otherwise reach their academic goals.

The regulations also define a college or university as "an institution of higher learning which awards recognized associate, bachelor's, master's, doctorate, or professional degrees." 8 C.F.R. § 214.2 (f)(6)(ii). This regulatory definition contemplates the awarding of degrees. For vocational or business programs, a school seeking to accept F visa students must specifically "submit evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character." 8 C.F.R. § 214.3 (c)(1). For private schools that are not accredited by a nationally recognized accrediting body, the schools must submit evidence that "[i]t confers upon its graduates recognized bachelor, master, doctor, professional, or divinity degrees," or "[i]f it does not confer such degrees, its credits have been and are accepted unconditionally by at least three other institutions of higher learning." 8 C.F.R. § 214.3 (c)(3). In contrast, the proposed four-year maximum is unrelated to the time regularly necessary to complete a degree, which creates an internally contradictory regulatory scheme.

## **VI. Conclusion**

The proposed rule is procedurally deficient, arbitrary and capricious, and contrary to law. DHS does not present any facts that justify the need to dramatically increase restrictions on international students and exchange visitors; rather, available evidence suggests the contrary. At no point does DHS demonstrate that it fully considered the multitude of costs and harms the proposed rule would have on the States or to the American



educational system, including the deterrent effect it would have on international students. For all the above reasons, the States urge DHS to withdraw the proposed rule.

Sincerely,



ROB BONTA  
California Attorney General



PHILIP J. WEISER  
Colorado Attorney General



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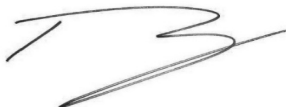
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New Mexico Attorney General

A handwritten signature in blue ink, appearing to read "Mr. J. P.", with a long, sweeping horizontal line extending to the right.

MATTHEW J. PLATKIN  
New Jersey Attorney General

A handwritten signature in blue ink, reading "Letitia James" in a cursive script.

LETITIA JAMES  
New York Attorney General

A handwritten signature in blue ink, appearing to read "A.D. Ford", with a stylized "H" at the end.

AARON D. FORD  
Nevada Attorney General

A handwritten signature in black ink, consisting of a series of loops and curves that form the name "Dan Rayfield".

DAN RAYFIELD  
Oregon Attorney General

A handwritten signature in black ink, reading "Charity R. Clark" in a cursive script.

CHARITY R. CLARK  
Vermont Attorney General

A handwritten signature in black ink, reading "Nicholas W. Brown" in a cursive script.

NICHOLAS W. BROWN  
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